HB 735 -- Insurance

Sponsor: Gosen

MARKET CONDUCT EXAMINATIONS

Market conduct examinations must be conducted only upon issuance of a warrant by the Director of the Department of Insurance, Financial Institutions and Professional Registration or with written consent of the insurer or company. A warrant must contain the signature of the chief market conduct examiner and must state facts sufficient to support the director's reasonable belief that:

(A) An insurer or other company may have engaged in, taken a substantial step toward engaging in, or may have materially aided any other person in engaging in any practice or course of business in violation of Chapters 287, 354, 374 to 385, RSMo, or any rule adopted thereunder, and the examination is reasonably calculated to provide data or other information relevant to the inquiry;

(B) Significant changes have occurred in an insurer's or other company's market share during the last year and the insurer is unable to provide a satisfactory explanation for the change;

(C) Significant market changes threaten the availability or affordability of insurance coverage; or

(D) An examination is required to be performed by law.

The criteria for the scope of a warrant and conducting a market conduct investigation are specified in the bill. Prior to the conclusion of a market conduct examination, the examiner-in-charge must schedule and conduct an exit conference with the insurer or company as outlined by the National Association of Insurance Commissioners Market Regulation Handbook.

An insurer in not required to notify a person of the sales tax provision and providing or not providing the notification must not be the reason for any action taken or penalty assessed by the division in a market conduct examination. A fine or civil penalty will not be imposed on the basis of a regulatory violation that is not also a violation of the enabling statute authorizing the regulation. The procedures for a complaint based market conduct investigation are specified in the bill.

GROUP ACCIDENT AND HEALTH INSURANCE

Currently, an insurance company licensed to transact business in this state must not deliver or issue for delivery a policy of group

accident or group health insurance, or group accident and health insurance, including insurance against hospital, medical or surgical expenses, unless the policy form has been approved by the department director. The bill requires the department director, if a policy form is disapproved, to provide in writing the reasons for noncompliance within 45 days of the date of filing or the policy form will be deemed approved. If at any time after a policy form is approved or deemed approved the director determines that any provision of the filing is contrary to state law, the director must notify the health carrier of the specific provision and request that the health carrier file an amendment form modifying the provision to conform to state law. If the director fails to approve or disapprove an amendment form within 45 days of the filing date, the amendment form will be deemed approved. If a policy form is approved or deemed approved and is subsequently amended for state law compliance upon the director's request, the department must not retroactively enforce the amended policy form.

PURCHASE OF DOMESTIC INSURANCE COMPANIES

The bill requires an entity seeking to divest or acquire a controlling interest in a domestic insurer to file a confidential notice of its proposed divestiture or acquisition with the department director. A person divesting a controlling interest must file the notification 30 days prior to the cessation of control. The director will determine which parties will be required to file the notification for approval of the transaction. Public hearings can be held on a consolidated basis if multiple state insurance commissioners are involved, and the criteria for holding a hearing is specified in the bill.

Upon request of the director, the ultimate controlling person of every insurer subject to registration with a total of direct and assumed premiums of at least $500 million must file an annual enterprise risk report. The criteria for the report are specified in the bill. The first enterprise risk report must be filed no later than May 1, 2015, and after 2015, on May 1, of each year unless the lead state insurance commissioner has good cause to extend the time for filing. This requirement does not apply to an insurer with a total of direct and assumed annual premiums of less than $500 million. The director is authorized to examine the enterprise risk report, and may require an insurer to produce specified information. If an insurer fails to file a report and that failure prevents the full understanding of the enterprise risk to the insurer by an affiliate or insurance holding company, the insurer will be in violation of Sections 382.100 to 382.180, RSMo, and will be placed under an order of suspension and will be subject to the disapproval of dividends or distributions.

The director is also authorized to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations to determine compliance by the insurer with Chapter 382. The powers of the director include but are not limited to:

(A) Initiating the establishment of a supervisory college;

(B) Clarifying the membership and participation of other supervisors in the supervisory college;

(C) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor or host who may be the director;

(D) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and

(E) Establishing a crisis management plan.

Each registered insurer must be liable for and pay the reasonable expenses of the director's participation in a supervisory college, and the department director may establish a regular assessment for the payment of the expenses. A supervisory college may be convened as a temporary or permanent forum for communication and cooperation between the supervising regulators of the insurer and its affiliates. The director may enter into an agreement that provides the basis for cooperation between the director and other regulatory agencies and the activities of the supervisory college. The supervisory college will not have the authority of the director to regulate or supervise the insurer or its affiliates within the director's jurisdiction.

The criteria for the director's use and dissemination of the information obtained under Chapter 382 are specified in the bill. Certain information is not subject to the Open Meetings and Records Law, commonly known as the Sunshine Law.